

MATTER OF PENDON

In Exclusion Proceedings

A-17230529

Decided by Board October 21, 1971

Applicant's motion to reopen the exclusion proceedings to permit her to apply for the benefits of section 241(f) of the Immigration and Nationality Act, as amended, based on the birth of a United States citizen child, is denied since the birth of a citizen child confers no benefits under section 241(f) of the Act upon an alien in exclusion proceedings.

EXCLUDABLE: ACT of 1952—Section 212(a)(20) [8 U.S.C. 1182(a)(20)]—Immigrant without visa.

ON BEHALF OF APPLICANT: Lloyd A. Tasoff, Esquire
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Los Angeles, California 90013

On December 5, 1969 we dismissed a joint appeal filed by the applicant, her husband, her sister, and her infant child, all aliens, from an order of a special inquiry officer excluding them from admission to the United States. The unopposed motion before us, filed by the above-named applicant alone, requests reopening in order that she may present evidence that on December 20, 1969, she gave birth to a child who is a United States citizen. She asserts that as the mother of a citizen child, she is within the purview of section 241(f) of the Immigration and Nationality Act and is saved from exclusion and deportation thereby. She also alleges that she is the beneficiary of a visa petition filed April 1, 1968, which should now be considered under the third preference, under which visas are now available to aliens who filed on or before November 16, 1968.

The motion is unsupported, contrary to the requirements of 8 CFR 3.2 and 3.8, and could be denied for that reason alone. However, even assuming the truth of the allegations now set forth, no case for reopening is made out. The motion will be denied.

Section 241(f) in terms renders inapplicable to qualified aliens the "provisions of this section," i.e., section 241 of the Act. That